



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No. 03015-03
27 October 2003

[REDACTED]

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This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 October 2003. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

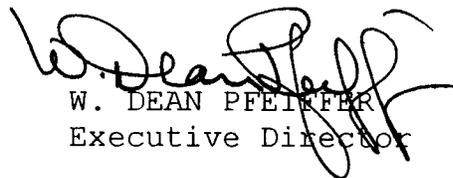
The Board found that you enlisted in the Marine Corps on 5 January 1994. You were counseled on 21 November 1995 and 17 December 1996 for deficiencies in performance and conduct. You received nonjudicial punishment on 8 May 1997 and 15 August 1997, for unauthorized absences, dereliction of duty, and the unauthorized use of a government telephone for personal use. On 25 August 1997, you were counseled concerning your failure to undergo level III alcohol rehabilitation treatment. You were discharged under other than honorable conditions on 16 January 1998 by reason of misconduct due to a pattern of misconduct.

The Board rejected your contention to the effect that you were diagnosed as suffering from "bipolar depression" during your enlistment in the Marine Corps, or that you were unfit for duty by reason of physical disability. It noted that you were diagnosed as suffering from an adjustment disorder, relationship problems, and a personality disorder, which are conditions not considered disabilities under the laws administered by the Department of the Navy. Although you could have been considered for separation by reason of the personality disorder, you had no right to be separated for that reason rather than misconduct. It did not accept your contention to the effect that your enlistment had expired prior to your discharge for misconduct. In this regard, it noted that your expiration of active service(EAS)date was extended from 4 to 17 January 1998, due to the lost time you had accumulated because of your unauthorized absences. The Board concluded that your discharge was properly characterized with a discharge under other than honorable conditions. The Board was not persuaded that it would be in the interest of justice for it to upgrade your discharge.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director